

Criminal Justice Committee
Wednesday 5 November 2025
29th Meeting, 2025 (Session 6)

Prostitution (Offences and Support) (Scotland) Bill

Note by the Clerk

Introduction

1. The [Prostitution \(Offences and Support\) \(Scotland\) Bill](#) was introduced on 20 May 2025.
2. The Bill creates a new offence of paying for sexual acts. The Bill also repeals the existing offence under section 46 of the Civic Government (Scotland) Act 1982 of soliciting and importuning by prostitutes. People who have been convicted of this offence in the past would have their convictions quashed. Additionally, Scottish Ministers will need to ensure that a person who is, or has been, in prostitution is provided with help and support.

Today's evidence on the Bill

3. At today's meeting, the Committee will take evidence from the following witnesses.
 - **Dr Emma Forbes**, National Lead for Domestic Abuse and Head of Victims and Witnesses Policy, Crown Office and Procurator Fiscal Service
 - **Detective Superintendent Steven Bertram**, Police Scotland
 - **Liliana Torres Jimenez**, Secretary of the Criminal Law Committee, Law Society of Scotland
4. The following submissions have been provided to the Committee, which are reproduced at the Annex—
 - Crown Office and Procurator Fiscal Service (pages 3 – 4);
 - Police Scotland (pages 5 – 6); and
 - Law Society of Scotland (pages 7 – 11).
5. The Committee has taken evidence on this Bill previously at its meetings on 29 October, [8 October](#), [25 June 2025](#).

Financial Memorandum

6. The Finance and Public Administration Committee issued a call for views on the Bill's Financial Memorandum.

7. The [responses to the call for views](#) can be found online.

Further reading

8. A [SPICe briefing on the Bill](#) can be found online.
9. The [responses to the Committee's call for views on the Bill](#) can be found online.

Clerks to the Committee
November 2025

ANNEX: SUBMISSIONS RECEIVED

SUBMISSION FROM CROWN OFFICE AND PROCURATOR FISCAL SERVICE

Introduction

1. The Crown Office and Procurator Fiscal Service (COPFS) supports the policy objectives of Ash Regan's Bill to reduce the demand for prostitution in Scotland and provide support and assistance to people who are or have been in prostitution.
2. COPFS recognises prostitution as a form of commercial sexual exploitation and that women and girls involved in prostitution are some of the most vulnerable in society. To this end, COPFS recognises them as victims of gender-based violence when dealing with cases involving them and remains committed to continuing its work with the Scottish Government and Police Scotland to tackle commercial sexual exploitation.
3. COPFS provides the following submissions on the provisions contained within the Prostitution (Offences and Support) (Scotland) Bill.

Section 1 – Offence of paying for the performance of a sexual act by a person

4. COPFS has the following comments in relation to the proposal to create a new offence of paying for the performance of a sexual act:

(i) Section 1(1) of the Bill provides the offence is committed "*if it can be reasonably inferred*" that the person "*has obtained or intended to obtain*" the performance of a sexual act. The 'reasonable inference test' is an established legal test and one that prosecutors are familiar with.

(ii) COPFS notes that when Ash Regan gave evidence at the Committee's evidence session on 25 June 2025, she does not envisage the use of those exploited by prostitution to give evidence to prove the offence.¹ COPFS can foresee difficulty in proving the accused's intention in circumstances where the offence takes place 'off street' and where there is no admission. In such cases, whilst COPFS would not wish to add to the trauma experienced by those exploited by prostitution, their evidence may be required to prove the accused's intention.

(iii) COPFS is concerned that the introduction of the proposed new offence will raise expectations there will be more prosecutions of those purchasing sexual acts. COPFS notes the relatively low numbers of prosecutions in Ireland and Northern Ireland following the introduction in those jurisdictions of an offence criminalising the buyer. COPFS is mindful of the challenges experienced by police and prosecutors in Ireland and Northern Ireland enforcing the legislation from the various published

¹ [Official Report](#) at page 46 "People who work in prostitution would not have to give evidence or have any involvement in this whatsoever."

ANNEX: SUBMISSIONS RECEIVED

reports² which reviewed the legislation. COPFS is concerned that police and prosecutors in Scotland will face similar evidential barriers to enforcing the proposed new offence.

(iv) COPFS was not consulted in advance of the preparation of the Financial Memorandum and notes that it estimates annual recurring costs to COPFS and the Scottish Courts and Tribunal Service to be in the range of £84,785 to £218,073. Given the concerns described in the preceding paragraphs, it is difficult to predict the additional costs to COPFS from the creation of this new offence.

Sections 2 and 3 – Repeal of section 46 of the Civic Government (Scotland) Act 1982

5. COPFS supports the policy intent behind these provisions which is in line with recognising prostitution as a form of commercial sexual exploitation and violence against women.

Sections 4 and 5 – Quash historic convictions under section 46 of the Civic Government (Scotland) Act 1982

6. COPFS has no submissions to make in relation to these provisions of the Bill on the basis they do not relate to COPFS.

Sections 6 and 7 –Statutory right to assistance and support

7. COPFS has no submissions to make in relation to these provisions of the Bill on the basis they do not relate to COPFS.

² [A review of the criminalisation of the payment for sexual services in Northern Ireland - Queen's University Belfast](#)
[nmn-response-to-the-qub-research-in-ni-1.pdf](#)
[A Reanalysis of the Equality Model in Northern Ireland | Nordic Model Now!](#)
[Review of legislation that criminalised the purchase of sex completed](#)

ANNEX: SUBMISSIONS RECEIVED

SUBMISSION FROM POLICE SCOTLAND

Call for Views Q1. The Bill proposes to create a new offence of paying for the performance of a sexual act by a person. The Bill (at section 1) includes details of the circumstances in which an offence would be committed. The Bill (at section 9) includes a definition of “a sexual act”. The Bill states that activities such as striptease, pole dancing, lap dancing, or other erotic performances are not included in the definition of a “sexual act”. What are your views on this proposal?

The above statement clashes with the Scottish Governments Equally Safe Strategy which defines ‘commercial sexual exploitation (CSE), including prostitution, lap dancing, stripping, pornography’ as VAWG.

It is acknowledged that the harms caused by these activities are managed by licensing regimes in some local authorities, however, these are not applied consistently across Scotland which is a separate issue.

Police Scotland are fully supportive that buying sex is a form of exploitation and should be covered by law.

Call for Views Q2. The Bill proposes to repeal section 46 of the Civic Government (Scotland) Act 1982. Under this section of the 1982 Act, a person who is found guilty of loitering, soliciting or importuning in a public place for the purposes of prostitution commits an offence. What are your views on this proposal?

We understand that people sell sex for a number of reasons and that some will need to sell sex in order to survive. We understand that the majority of those that sell sex can be very vulnerable and most at risk of violence and therefore should be signposted for support, if required, rather than being criminalised.

Fully Supportive

Call for Views Q3. The Bill proposes to quash historic convictions under section 46 of the Civic Government (Scotland) Act 1982, which relates to the offence of loitering, soliciting or importuning in a public place for the purposes of prostitution. What are your views on this proposal?

We understand that people who have convictions under s46 can be impacted in a number of negative ways, including securing employment. This can be counterproductive in trying to assist people who are ready and looking to exit from prostitution.

Fully Supportive

ANNEX: SUBMISSIONS RECEIVED

Call for Views Q4. The Bill proposes (at section 6) to place a duty on the Scottish Ministers to ensure that a person who is or has been in prostitution is provided with assistance and support. The Bill sets out a non-exhaustive list of the types of assistance and support that may be provided. What are your views on this proposal?

Fully Supportive

Call for Views Q5. Do you have any other comments on the Bill which you have not already covered elsewhere?

Police Scotland recognise that we have sound legislation in place to be able to challenge demand for 'on street' prostitution. There is also appropriate legislation in place that allows police to target Serious and Organised Crime groups who exploit people through sexual exploitation where Human Trafficking is apparent. There is a gap in the current legislation though with being able to police 'off street' CSE when there are no Human Trafficking indicators present. This is an area that needs reviewed and needs legislated.

ANNEX: SUBMISSIONS RECEIVED

SUBMISSION FROM LAW SOCIETY OF SCOTLAND

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Criminal Law Committee welcomes the opportunity to consider and respond to the Scottish Parliament's Criminal Justice Committee call for views on the Prostitution (Offences and Support) (Scotland) Bill . The Committee has the following comments to put forward for consideration.

Call for Views Q1. The Bill proposes to create a new offence of paying for the performance of a sexual act by a person. The Bill (at section 1) includes details of the circumstances in which an offence would be committed. The Bill (at section 9) includes a definition of “a sexual act”. The Bill states that activities such as striptease, pole dancing, lap dancing, or other erotic performances are not included in the definition of a “sexual act”. What are your views on this proposal?

According to the Policy Memorandum, the Bill aims to reduce the amount of prostitution in Scotland (1). The Member who introduced the Bill, Ash Regan MSP, considers that prostitution endangers the physical and mental health of the people that sell sexual acts(2); is linked with violence offences and human trafficking (3); and is often undertaken by vulnerable women and girls (4).

At consultation stage, we indicated that our comments were focused on the legal impact that the proposed Bill may have (5). We maintain the same approach in this written evidence.

At consultation stage, we highlighted the importance of narrow and precise definitions in any potential new offence that reflect the Member's policy intentions.

The Bill introduces the offence of paying for the performance of a sexual act by a person. We note that the offence criminalises paying for the performance of a “sexual act” rather than a “sexual service”. Whilst other statutes that criminalise the purchase of sexual activities use the term “sexual services”(6), we understand that the member preferred the term “sexual act” due to the analysis of the consultation responses. The analysis indicated:

ANNEX: SUBMISSIONS RECEIVED

“Respondents supporting the Bill raised two language issues: that the term ‘sexual services’, used in some parts of the consultation, was misleading as it gave the impression that prostitution is a service industry, and buyers are merely customers buying a service. Use of this term was strongly criticised as undermining the Bill in itself – if prostitution is merely a service industry and buyers just customers buying a service, why would there ever be a need to criminalise the buyers? Several respondents highlighted that the report of prostitution published by Reem Alsalem, quoted on pages 5,9 and 11 of the consultation, defined prostitution as selling ‘sexual acts’ instead and explained why ‘sexual services’ was a term Ash Regan should not be using in the wording of the Bill (7)”.

We also note that the Bill’s definition of the “performance of a sexual act” (section 9(1)) covers only in-person performances. We welcome this precision, as the initial proposal at consultation stage (8) was not clear on whether online performances would be also criminalised.

However, we consider that the definition of “performance of a sexual act” requires further precision. We noted that Section 9(1)(b) excludes from the referred definition activities such as striptease, pole dancing, lap dancing, or “other erotic performances”. If “other erotic performances” are excluded from the scope of the offence, we suggest that the Bill defines what an erotic performance is.

Section 1(2) contains the penalties for the proposed offence. On summary conviction, the proposed penalties are imprisonment up to 6 months or a fine not exceeding the statutory maximum or both. On conviction on indictment, it is proposed that the court will have the power to impose imprisonment of up to 12 months or a fine or both.

The penalties proposed in the Bill do not seem to align with the statutory limits for solemn and summary proceedings. Sheriffs who conduct summary proceedings can impose a sentence of up to 12 months (9). By contrast, sheriffs who conduct solemn proceedings can impose a sentence of imprisonment of up to 5 years (10). If the maximum custodial sentence provided for in the new offence is within the limits of summary proceedings, in our view it is not clear why the offence is also triable on indictment.

In addition, as we indicated at consultation stage, the penalties proposed do not seem to align with the presumption against short sentences. Section 204 (3A) of the Criminal Procedure (Scotland) Act 1995 prevents courts from imposing sentences of imprisonment for a term of 12 months or less, unless the court considers that no other method of dealing with the person is appropriate. This presumption was introduced to encourage the use of community sentences and reduce reoffending (11).

We consider that further consideration should be given to the penalties proposed for the new offence to ensure they are consistent with the current sentencing provisions.

ANNEX: SUBMISSIONS RECEIVED

- (1) Policy Memorandum (para.4) – parliament.scot
- (2) Policy Memorandum (para. 30-33).
- (3) Policy Memorandum (para. 24-29 and 43-52).
- (4) Policy Memorandum (para. 36-38).
- (5) Proposed Prostitution (Offences and Support) (Scotland) Bill consultation response – lawscot.org.uk
- (6) For example, Section 9 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 – legislation.gov.uk
- (7) Proposed Prostitution (Offences and Support) (Scotland) Bill – Ash Regan MSP. Summary of Consultation Responses. Page 9 – parliament.scot
- (8) Proposed Prostitution (Offences and Support) (Scotland) Bill. Consultation by Ash Regan MSP. Page 40 – parliament.scot
- (9) Section 5 (2d) of the Criminal Procedure (Scotland) Act 1995 – legislation.gov.uk
- (10) Section 3 (3) of the Criminal Procedure (Scotland) Act 1995 – legislation.gov.uk
- (11) Extended presumption against short sentences: monitoring information – January – December 2020 – gov.scot

Call for Views Q2. The Bill proposes to repeal section 46 of the Civic Government (Scotland) Act 1982. Under this section of the 1982 Act, a person who is found guilty of loitering, soliciting or importuning in a public place for the purposes of prostitution commits an offence. What are your views on this proposal?

Sections 2 and 3 repeal the offence of soliciting and importuning by prostitutes. We do not have further comments on this proposal.

Call for Views Q3. The Bill proposes to quash historic convictions under section 46 of the Civic Government (Scotland) Act 1982, which relates to the offence of loitering, soliciting or importuning in a public place for the purposes of prostitution. What are your views on this proposal?

At consultation stage, we mentioned a few examples of statutory pardons for people convicted of historical offences (12). One example is the Historical Sexual Offences (Pardon and Disregards) (Scotland) Act 2018. When introduced, the Policy Memorandum of the Bill indicated:

“Same-sex sexual activity between men was, in itself, a criminal offence in all circumstances as late as 1980. This law applied wherever the activity took place including in, for example, private homes. And it was only in January 2001 that the age of consent for sexual activity between men and sexual activity between opposite-sex partners was equalised at 16 following the commencement of the Sexual Offences (Amendment) Act 2000. It can be said that the earlier laws were in and of themselves discriminatory” (13).

The 2018 Act has a dual approach: it provided a statutory pardon with “symbolic effects” (14) and set up a scheme in which people convicted by historical sexual offences listed in the Bill can apply to have their conviction disregarded (15).

ANNEX: SUBMISSIONS RECEIVED

We note some similarities between the policy intentions of the 2018 Act and the proposed Bill. Both challenge the criminalisation of specific behaviours and provide symbolic and procedural remedies to stop the effects of any potential conviction for the offences that were challenged.

Despite the former conclusion, the Bill proposes quashing convictions of the relevant offences rather than providing a statutory pardon. This was the approach taken by the Post Office (Horizon System) Offences (Scotland) Act 2024. In this case, the policy intention of the Act was not to challenge the criminalisation of specific offences, but to recognise significant concerns (16) on how the judicial system operated in the context of the Post Office scandal.

As we indicated in the scrutiny of the Post Office (Horizon System) Offences (Scotland) Bill, we consider that it is a matter for the Scottish Courts rather than the Scottish Parliament to review and quash convictions, when appropriate (17).

We have some reservations about the principle of an Act of the Parliament quashing convictions which were imposed on a legal basis. We are concerned that this approach may undermine the rule of law, affecting the principle of separation of powers.

Because of that, we are of the view that if the principles of the Bill are approved by the Scottish Parliament at Stage 1, a similar approach to the Historical Sexual Offences (Pardon and Disregards) (Scotland) Act 2018 should be considered and preferred, and the Bill amended accordingly at Stage 2.

(12) E.g.: Miners' Strike (Pardons) (Scotland) Act 2022

(13) Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill. Policy Memorandum (para. 5) – parliament.scot

(14) Ibid (para. 16).

(15) Ibid (para. 23).

(16) Those concerns were focused on the use of the evidence obtained from the Horizon IT system, that produced unfair convictions. Cfr. Post Office (Horizon System) Offences (Scotland) Bill. Policy Memorandum (para. 5) – parliament.scot

(17) Post Office (Horizon System) Offences (Scotland) Bill Stage 1 briefing – lawscot.org.uk

Call for Views Q4. The Bill proposes (at section 6) to place a duty on the Scottish Ministers to ensure that a person who is or has been in prostitution is provided with assistance and support. The Bill sets out a non-exhaustive list of the types of assistance and support that may be provided. What are your views on this proposal?

We do not have any views on this proposal.

ANNEX: SUBMISSIONS RECEIVED

Call for Views Q5. Do you have any other comments on the Bill which you have not already covered elsewhere?

We do not have anything else to add.